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MICHAEL RODAK, JR., CLERK

Supreme Court of the United States

October Term, 1976

No. 76-1475

LAMB ENTERPRISES, INC., EDWARD O. LAMB, *et al.*,

Petitioners,

vs.

HONORABLE GEORGE N. KIROFF, *et al.*,

and RUSSELL MORTON BROWN,

Respondents.

PETITIONERS' SUPPLEMENTAL BRIEF

ROBERT B. GOSLINE

DAVID W. WICKLUND

SHUMAKER, LOOP & KENDRICK

811 Madison Avenue

Suite 500

Toledo, Ohio 43624

Attorneys for Petitioners

Of Counsel:

LEROY W. SIGLER

600 Edward Lamb Building

Toledo, Ohio 43604

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PETITIONERS' SUPPLEMENTAL BRIEF

On April 20, 1977, this Court announced its opinion in *Wooley v. Maynard*, 45 U.S.L.W. 4379 (April 20, 1977). Petitioners believe that this case is highly pertinent to the issues presented in their Petition for Writ of Certiorari, which was filed on April 22, 1977. Therefore, pursuant to Rule 24(5) of the Rules of the Supreme Court of the United States, petitioners submit this Supplemental Brief calling attention to the applicability of this new case to the issues presented in their Petition.

ARGUMENT

Under the Court's Decision in *Wooley v. Maynard*, the Younger-Huffman Doctrine Does Not Prohibit a Federal Court From Enjoining Relitigation of an Action in State Court Where Such Relitigation Infringes on the Defendant's Federal Rights.

Petitioners, in their Petition for Writ of Certiorari and throughout the litigation of this case in United States District Court and the Sixth Circuit Court of Appeals, have taken the position that the Full Faith and Credit Clause, United States Constitution, Article IV, Section 1, the Supremacy Clause, United States Constitution, Article VI, Clause 2, and 28 U.S.C. Section 1783 (Full Faith and Credit), 42 U.S.C. Section 1983 (Constitutional Rights), 28 U.S.C. Section 1651 (All Writs Statute) and 28 U.S.C. Section 2283 (Third Exception to the Anti-Injunction Statute) preclude respondent, Russell Morton Brown, from relitigating his claims against petitioners in the courts of the State of Ohio. Brown's claims against petitioners were fully litigated in the courts of the District of Columbia and through the federal appellate courts, including this Court, resulting in a judgment in favor of petitioners. The judgment of the District Court of the District of Columbia is entitled to full faith and credit in Ohio. The district court was correct in holding that it had jurisdiction to enjoin further litigation of those claims in state court in order to effectuate and protect the District of Columbia judgment and to protect petitioners' constitutional right to full faith and credit recognition of that judgment.

The Sixth Circuit Court of Appeals in reversing the district court held that under this Court's decisions in *Younger v. Harris*, 401 U.S. 37 (1971), and *Huffman v.*

Pursue, Ltd., 420 U.S. 592 (1974), the district court should have exercised "equitable restraint" in enjoining the state court action, because petitioners can present their federal claims in the state court proceeding. Petitioners believe that the recent decision of this Court in *Wooley v. Maynard*, 45 U.S.L.W. 4379 (April 20, 1977), shows that the Sixth Circuit's application of the *Younger-Huffman* abstention doctrine to this case was in error.

In *Wooley v. Maynard, supra*, Maynard, a Jehovah's Witness, considered New Hampshire's state motto, "Live free or die," which appeared on the state's license plates, repugnant to his religious beliefs. Consequently, Maynard covered up the motto on his license plates. He was arrested and convicted on three separate occasions for violating a state statute making it a misdemeanor to deface a license plate. Maynard did not appeal any of the convictions. Instead he and his wife brought an action in federal court under 42 U.S.C. Section 1983, seeking injunctive and declaratory relief against enforcement of the state statute on the grounds that having to display the state motto on his license plate violated his constitutionally guaranteed right to religious freedom. A three-judge district court agreed and issued an injunction prohibiting future prosecution of Maynard and his wife under this statute.

On a direct appeal to this Court, the state argued that the district court was precluded from exercising jurisdiction in this case by reason of the principles of "equitable restraint" enunciated in *Younger* and *Huffman*, requiring him to exhaust his appeals through the state courts before seeking redress in federal court. This Court upheld the decision of the district court, stating that "a litigant is entitled to resort to a federal forum in seeking

redress under 42 U.S.C. Section 1983 for an alleged deprivation of federal rights." 45 U.S.L.W. at 4380. Moreover, it was held that Maynard did not have to present his claims of federally protected rights to the state courts before seeking relief from the federal courts, because the relief sought was wholly prospective and did not seek to annul the results of a state trial. The Court distinguished *Huffman v. Pursue, Ltd., supra*, in which exhaustion of state remedies was required, stating:

"Federal post-trial intervention, in a fashion designed to annul the results of a state trial . . . deprives the State of a function which quite legitimately is left to them, that of overseeing trial court dispositions of constitutional issues which arise in civil litigation over which they have jurisdiction. 420 U.S. at 609'

"Here, however, the suit is no way 'designed to annul the results of a state trial' since the relief sought is wholly prospective. . . ." 45 U.S.L.W. at 4381.

To the extent that *Wooley v. Maynard, supra*, does not require a state court litigant to exhaust all his state court remedies before seeking protection of his federal rights by means of an injunction action in federal court, it is highly pertinent to the issues presented by petitioners' Petition for Writ of Certiorari. As already noted, the Sixth Circuit Court of Appeals found that because petitioners could raise their federal claims in the state court proceeding, the district court should not have enjoined that proceeding. However, in *Wooley*, Maynard could have raised his federal claims in the state courts. But because he was not seeking to annul the results of his previous state court convictions, this Court found that he could seek in-

junctive relief in federal court to prohibit further prosecution under a state criminal statute, which Maynard believed violated his right to religious freedom. Significantly, the district court and this Court allowed Maynard to challenge the constitutionality of a state criminal statute in federal court, even though the state appellate courts had yet to pass on the issue. In the instant case, petitioners also are not seeking to annul the results of a state trial. Brown's state action has never been prosecuted to trial. Moreover, rather than seeking to annul the results of a state court trial, petitioners have sought federal intervention to prevent Russell Morton Brown from using the Ohio courts to annul the results of the District of Columbia litigation. In *Wooley v. Maynard, supra*, Maynard was seeking to enjoin future prosecution under a state statute which he believed to be unconstitutional. Similarly, in this case petitioners are seeking to prevent further litigation of Brown's claims, because relitigation of his claims is an unconstitutional denial of full faith and credit to the District of Columbia judgment. Consequently, petitioners submit that under this Court's holding in *Wooley*, this is an appropriate case for federal intervention and that the district court was correct in enjoining the state court proceeding.

CONCLUSION

The recent decision of this Court in *Wooley* shows that the district court properly enjoined the state court litigation to protect and effectuate a federal court judgment and prevent re litigation of such a judgment.

ROBERT B. GOSLINE
DAVID W. WICKLUND
SHUMAKER, LOOP & KENDRICK
811 Madison Avenue
Suite 500
Toledo, Ohio 43624
(419) 241-4201
Attorneys for Petitioners

Of Counsel:

LEROY W. SIGLER
600 Edward Lamb Building
Toledo, Ohio 43604
(419) 241-1254